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GOVERNMENT GAZETTE

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SUPPLEMENT

(No. 3)

(SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Secretariat

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/2756/65

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and Conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

Goa, Daman and Diu Excise Duty (Amendment) Bill, 1965 (Bill No. 18 of 1965)

A bill to amend the Goa, Daman and Diu Excise Duty Act 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Sixteenth Year of the Republic of India as follows:—

1. Short title. — This Act may be called the Goa, Daman and Diu Excise Duty (Amendment) Act, 1965.

2. Amendment of section 5 of GDD Act 5 of 1964.— In section 5 of the Goa, Daman and Diu Excise Duty Act, 1964 (hereinafter referred to as the principal Act) —

(a) for the words «such quantity as the Government may, from time to time, prescribe by

notification either for the whole of the Territory or for any local area thereof» the words «eighteen bottles» shall be substituted;

(b) the proviso shall be deleted.

3. Amendment of section 8 of GDD Act 5 of 1964.— 3. In section 8 of the principal Act, for the words «such quantity as the Government may by notification prescribe» the words «eighteen bottles» shall be substituted.

4. Amendment of section 10 of GDD Act 5 of 1964.— In section 10 of the principal Act,—

(a) after the words «the Government may» the words «under special circumstances» shall be inserted.

(b) the words «to any area» shall be added at the end.

5. Amendment of section 14 of GDD Act 5 of 1964.— In section 14, of the principal Act, in sub-section 3, the words «or in default by him, where the tree is tapped without a licence under this Act, from the owner or occupier of the land, unless he approves that the trees were tapped without his consent» shall be deleted.

6. Amendment of section 16 of GDD Act 5 of 1964.— In section 2 of the principal Act, in sub-section (2), in clause (c), the words «or of any cognizable or non-bailable offence» shall be deleted.

7. Deletion of section 36 of GDD Act 5 of 1964.— Section 36 of the principal Act shall be deleted.

8. Amendment of the Schedule to GDD Act 5 of 1964. — In the Schedule to the principal Act, in part E, for the letters and figures «Rs. 10/-», «Rs. 7/-», and «Rs. 5/-» the letters and figures «Rs. 5/-», «Rs. 4» and «Rs. 3» shall respectively be substituted.

Statement of Objects and Reasons

The object of this Bill is to mitigate the hardships that are actually being caused to the Toddy Tappers. The following notes on the Clauses explain the reasons:

Clause 2: — Section 5 of the principal Act leaves it to the Govt. to prescribe the quantity of liquor that could be transported within the Territory and also gives power to Govt. to exempt such transport of foreign liquor. This power is discriminatory in its nature and gives undue advantage to the foreign liquor over the country liquor. This Section is, therefore, sought to be amended, fixing the quantity as 18 bottles for all types of liquor.

Clause 4: — Section 10 of the principal Act gives unrestricted powers to Govt. to prohibit transport of liquor and it is necessary to restrict it to a certain extent. Hence it is sought to be amended.

Clause 5: — Under Sub-Section 3 of Section 14 of the principal Act, when there is a default in paying the tree tax by the Toddy Tapper without licence, the same is liable to be recovered from the owner or occupier of the land, unless he proves that the tree was tapped without his consent. After the working of this provision, it has been found that this has resulted in the wholesale refusal by the owners of the trees to give their trees for tapping with disastrous difficulties to the Toddy Tappers business. The fact that the owner has not given his consent for tapping of the trees means that the trees are tapped without his knowledge and it is not physically possible for him to guard each tree all the time. In fact it is the responsibility of the Govt. and not the owner of the tree to see that there is no unauthorised tapping of the trees. This Section is, therefore, sought to be amended to mitigate the problem.

Clause 6: — Sub-Section 3 of Section 16 of inter-alia provides that the holder of a licence or a permit

if punished for any cognisable or non-cognisable offence not necessarily under this Act, his licence is liable to be cancelled. This means inflicting and additional punishment on him for which he has already been punished once. This is against the basic principle of justice and he and his family may be deprived of their means of livelihood. This punishment may prove to be disproportionately drastic for a Toddy Tapper. Therefore, it is sought to delete this provision.

Clause 7: — Section 36 of the principal Act provides for a presumption against the accused for commission of any offence against the Act. This presumption is contrary to all canons of natural justice and against the principles contained in the Indian Evidence Act. In other States where there is a total prohibition of liquor, such a drastic presumption may become justifiable, but in this Union Territory, there is no prohibition but only imposition of Excise Duty. The whole section is, therefore, sought to be deleted.

Section 8: — The rates of tree tax imposed by the principal Act are found by experience to be too drastic and are adversely affecting the business of the toddy tapping. As a large number of poor section of the people of this Territory are engaged in the business of toddy tapping, they are greatly affected due to high tax on trees. Moreover, with the abnormal increase in the price of cocoanuts, the tree rentals have also gone very high and if the high rate of tree tax is imposed, it becomes uneconomical for the Toddy Tappers to continue their business and there is likelihood of discontinuance of trade and thereby failure of the collection of tax. This hardship is sought to be mitigated to some extent by this amendment.

The formation of Co-operative Wholesale Societies of the Toddy Tappers has enabled the Govt. to achieve the taxable quantum as per Sales Tax Act, which will mitigate to some extent the loss of Govt. revenue, as this quantum would not have been achieved if the sales were affected individually. So part E of the Schedule is sought to be amended.

Panjim,
July 20, 1965

DATTARAM CHOPDENKAR
MLA

ASSEMBLY HALL, P. B. VENKATASUBRAMANIAN

Panjim,
July 24, 1965

Secretary to the Legislative Assembly
of Goa, Daman and Diu.